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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/049,304	03/27/1998	SAVERIO CARL FALCO	BB-1037-F	5349

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EXAMINER

MCELWAIN, ELIZABETH F

ART UNIT

PAPER NUMBER

1638

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24

Please find below and/or attached an Office communication concerning this application or proceeding.

The amendment filed December 23, 2002 has been entered.

Claims 1, 4-7, 11 and 14 are newly amended.

Claims 2-3 have been cancelled.

Claims 21-26 are newly submitted. However, please note the typographical error

5 (olant) and improper dependency of claim 26.

The amendment filed on December 23, 2002 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because the 10 amended claims are now drawn to a nucleic acid sequence encoding a plant lysine ketoglutarate reductase/saccharopine dehydrogenase (LKR/SDH), and the newly submitted claims are drawn to a nucleic acid for antisense inhibition and plants and seeds transformed therewith.

However, the invention elected in paper numbers 18 and 20 is drawn to a nucleic acid sequence encoding a plant lysine ketoglutarate reductase and plants transformed with said gene, 15 and specifically to SEQ ID NOS: 120 and 122. A nucleic acid sequence encoding a polypeptide having the combined activities of lysine ketoglutarate reductase/saccharopine dehydrogenase, or to antisense nucleic acids are non-elected by original presentation. Search and examination of the present claims would be an undue burden, as the present claims are drawn to distinct inventions from those originally examined, wherein a combined LKR/SDH 20 gene and antisense sequences are structurally and functionally distinct from an LKR coding sequence of the original claims, each having different effects. The invention originally elected

and examined can be separately made and independently used from the inventions of the present claims, and the patentability of one does not render the others obvious or unpatentable.

Since the above-mentioned amendment appears to be a bona fide attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever 5 is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

It is suggested that Applicant begin using the new format for entry of amendments, as 10 set forth at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/revamdtprac.htm>.

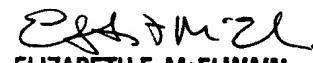
Any inquiry concerning this communication or earlier communications from the 15 examiner should be directed to Elizabeth F. McElwain whose telephone number is (703) 308-1794. The examiner can normally be reached on Monday through Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson, can be reached at (703) 306-3218. The fax phone number for this 20 Group is (703) 308-4242. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989).

Any inquiry of a general nature or relating to the status of this application should be directed to the CUSTOMER SERVICE TECH CENTER 1600, whose telephone number is (703) 308-0198, or to the Group receptionist whose telephone number is (703) 308-0196.

25

Elizabeth F. McElwain, Ph.D.
March 28, 2003


ELIZABETH F. McELWAIN
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